

1 IN THE UNITED STATES BANKRUPTCY COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 IN RE: § CASE NO. 20-33948-11
5 § JOINTLY ADMINISTERED
6 § HOUSTON, TEXAS
7 § TUESDAY,
8 § NOVEMBER 30, 2021
9 DEBTOR. § 2:31 P.M. TO 3:32 P.M.

10 MOTION HEARING

11 BEFORE THE HONORABLE MARVIN ISGUR
12 UNITED STATES BANKRUPTCY JUDGE

13 APPEARANCES: SEE NEXT PAGE

14 (Recorded via CourtSpeak)

15 TRANSCRIPTION SERVICE BY:

16 JUDICIAL TRANSCRIBERS OF TEXAS, LLC
17 935 Eldridge Road, #144
18 Sugar Land, TX 77478
19 281-277-5325
20 www.judicialtranscribers.com

21 Proceedings recorded by electronic sound recording;
22 transcript produced by transcription service.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES (VIA ZOOM):

FOR QUARTER NORTH: WEIL GOTSHAL & MANGES, LLP
Paul Genender, Esq.
Alfredo Perez, Esq.
Cliff Carlson, Esq.
Erin Choi, Esq.
Kevin Simmons, Esq.
200 Crescent Court, Ste. 300
Dallas, TX 75201-6950
214-746-7877

FOR BP EXPLORATION: GREENBERG TRAURIG, LLP
Shari Heyen, Esq.
Craig Duewall, Esq.
(Via Telephone) - Karl Burrer, Esq.
John Hutton, Esq.
Ryan Wagner, Esq.
Jared Weir, Esq.
1000 Louisiana St., Ste. 1700
Houston, TX 77002
713-374-3500

1 **HOUSTON, TEXAS; TUESDAY, NOVEMBER 30, 2021; 2:31 P.M.**

2 THE COURT: All right. We are here in the
3 Fieldwood Energy matter. It is 20-33948.

4 If you wish to speak today, if you will please
5 press five star if you're coming in remotely and if you're
6 here in Court, if you'll stand at the podium and briefly
7 make your appearance, sort of, the old-fashioned way.

8 Mr. Genender?

9 MR. GENENDER: Good afternoon, Your Honor. Paul
10 Genender, Weil Gotshal & Manges. And I'm here with my
11 colleagues, Alfredo Perez, Erin Choi, Cliff Carlson, and
12 Kevin Simmons.

13 THE COURT: All right. Thank you.

14 MS. HEYEN: Good afternoon, Your Honor.

15 THE COURT: Good afternoon.

16 MS. HEYEN: Good to see you. Shari Heyen of
17 Greenberg Traurig on behalf of BP Exploration & Production.
18 Joining me in the courtroom today are Mr. Craig Duewall,
19 Mr. John Hutton, Mr. Ryan Wagner, and Mr. Jared Weir.

20 Thank you.

21 THE COURT: Good afternoon. It's good to have
22 everybody back.

23 MS. HEYEN: Thank you.

24 THE COURT: If anyone on the phone wishes to
25 appear, again you'll need to press five star.

1 There are some little postings about the masks,
2 making them your discretionary masks, so you-all do what you
3 want to on that. I just don't want anybody feeling
4 uncomfortable one way or the other.

5 All right. Looks like that all the people who
6 intend to speak are going to be here. We do obviously have
7 some people that are watching and you can see them up on the
8 screen.

9 So I guess it is your motion, Mr. Genender, but I
10 want to start by finding out who thinks this is ambiguous
11 and who thinks that I have an unambiguous document that I
12 just need to rule on, because I want to figure out why some
13 of -- if the document is unambiguous, why I would admit some
14 of this stuff that people are proposing to admit? If you
15 think it's ambiguous, I would understand why, but I want to
16 start by hearing whether I have an ambiguous document and
17 what, I guess, along with that is what is then the
18 controlling document, if it is unambiguous.

19 So I'll make you go first, Mr. Genender, and then
20 we'll have Ms. Heyen go. Sorry.

21 All right. Mr. Genender?

22 MR. GENENDER: Your Honor, Paul Genender for
23 QuarterNorth.

24 We do not contend that the governing document is
25 unambiguous -- I mean, is ambiguous, excuse me, I misspoke.

1 First time in front of you in a year and a half in person.

2 The document is unambiguous.

3 THE COURT: Okay.

4 MR. GENENDER: And in terms of what we think you
5 need --

6 THE COURT: Which document do you believe is the
7 one that's unambiguous that controls the decision?

8 MR. GENENDER: I think it's the -- well, I think
9 it's the Confirmation Order primarily and --

10 THE COURT: Is it the first one where Mr. Carlson
11 -- and I know this is now leaving things a little bit, says,
12 "Don't worry, the second Order doesn't change whatever the
13 outcome of this dispute will be."

14 So should I look at the first Order or the second
15 Order?

16 MR. GENENDER: I think you can look at either or
17 both.

18 THE COURT: Okay.

19 MR. CARLSON: Your Honor, that's not exactly
20 correct.

21 MR. GENENDER: Yeah, because I think it's the
22 email you're referring to may not -- I may let Mr. Carlson
23 speak to the question on the email, if that's okay with the
24 Court?

25 THE COURT: No. You think -- I'm just trying to

1 figure out which document you think and you're telling me I
2 can use either the first Order or the second Order.

3 MR. GENENDER: We have -- yeah, we have focused on
4 -- well, the parties have briefed paragraphs 18, 20, and
5 133.

6 THE COURT: Uh-huh.

7 MR. GENENDER: Those paragraphs are unambiguous in
8 our view.

9 THE COURT: 18, 20, 133?

10 MR. GENENDER: 18, 20, and 133, yes, sir.

11 THE COURT: Are the same?

12 MR. GENENDER: Yes.

13 THE COURT: Okay.

14 MR. GENENDER: And as it relates to the evidence,
15 the evidentiary record that we were proposed to put in,
16 which is 2269-1 through -9, which I do not believe there's
17 an objection to the entry of those into evidence, which I'd
18 move into evidence.

19 I don't think that strays into the world of
20 evidence that would suggest that we're dealing with an
21 ambiguous contract to the contrary. I think is it all
22 necessary? A 100 percent? Probably not, but we think
23 that --

24 THE COURT: Well, the hearing transcript goes to
25 interpret the Order. I'm not going to look at the hearing

1 transcript if we have an unambiguous --

2 MR. GENENDER: And you're -- that's true, Your
3 Honor. We don't need -- I don't think we need hearing
4 transcripts from either side for an evidentiary basis unless
5 it were -- unless there were specific evidentiary basis to
6 introduce --

7 THE COURT: I don't know why we need Mr. Vaughn's
8 declaration.

9 MR. GENENDER: Mr. Vaughn's declaration, Your
10 Honor, I think sets forth an undisputed fact as to the
11 amount, but I understand that, as well.

12 We're seeking to enforce -- I think Mr. Vaughn's
13 declaration needs to let you know on an evidentiary basis
14 that we didn't get paid, you know, for those violations of
15 the Order.

16 THE COURT: Okay. Yeah, I don't -- okay. I
17 guess --

18 MR. GENENDER: But I don't think -- that's not in
19 dispute.

20 THE COURT: -- I guess that's right. Okay.

21 MR. GENENDER: That's not in dispute.

22 THE COURT: Ms. Heyen, what do you think I've got?
23 Do you think that I have an ambiguous paragraph?

24 MS. HEYEN: I think Your Honor --

25 THE COURT: Do you think it's 18, 20, and 133?

1 And do you think that they are ambiguous?

2 MS. HEYEN: Thank you, Your Honor. Mr. Duewall is
3 going to lead the --

4 THE COURT: Mr. Duewall, go ahead.

5 MS. HEYEN: -- dialog today.

6 MR. DUEWALL: Good afternoon, Your Honor. I don't
7 believe we have an unambiguous document. It's my
8 understanding we have one Order --

9 THE COURT: You think it is ambiguous?

10 MR. DUEWALL: It's not ambiguous.

11 THE COURT: Okay. You think we have an
12 unambiguous document?

13 MR. DUEWALL: Correct.

14 THE COURT: Okay.

15 MR. DUEWALL: Correct. And I think we have one
16 Order and I think we have two PSAs --

17 THE COURT: Got it, sorry.

18 MR. DUEWALL: -- but if the extent of the Court's
19 question is whether or not it's ambiguous, it's not
20 ambiguous --

21 THE COURT: And do we have any dispute that you
22 didn't pay them and that the payment that you -- and that
23 you didn't do that because of an offset, and that it's not
24 often that the offset came out of a contract that wasn't to
25 suit?

1 MR. DUEWALL: That's correct.

2 THE COURT: So those are all stipulated facts.

3 MR. DUEWALL: Those are all stipulated facts. I
4 do think there is a bit of a nuance here in terms of what
5 they're seeking under their motion. You know, they're
6 seeking whether or not, you know, we have a setoff right and
7 whether we've executed that right in bad faith. I think
8 that's the scope of their Order. I don't know -- or their
9 motion. I don't know that their motion gets to the kind of
10 third step as to whether or not we're right under the setoff
11 analysis, but I leave that to the Court's discretion, as
12 well, but I raise that issue as a threshold matter.

13 THE COURT: Fair enough. So I don't -- I think
14 what I would like to do and it's -- you-all tell me if you
15 think I'm doing this wrong is if those facts are undisputed,
16 and I took it that they were when I started, I really want
17 to hear argument then about what the contract says and how
18 to interpret it in you-all's mind so that I can hear each
19 side's -- what they believe to be unambiguous interpretation
20 of contract and not look to extraneous evidence until I
21 determine that, in fact, the contract is ambiguous.

22 I don't think that I ought to be looking at
23 hearing transcripts yet. I don't think that I ought to be
24 looking at, you know, somebody's interpretation yet or what
25 someone said in an email that it meant. The only part of

1 that that I feel that may be a little bit different is I
2 would let you guys rely on, is it 1780? Whatever the Order
3 is where you do get an email that says you needn't worry
4 that we're doing anything different here.

5 MR. DUEWALL: Right.

6 THE COURT: Because that would go to whether you
7 guys had a reliance interest in that Order and I'm going to
8 -- at least for the purpose of this, assume that you had a
9 reliance interest in the Order the way it was written that's
10 unambiguous.

11 So I think we probably need to let Mr. Genender
12 start the argument, but I'm -- unless you want to argue to
13 me that I'm wrong and I should open this all up and start
14 hearing everybody else's views of, you know, what they
15 thought and what it might mean, other than just reading the
16 words?

17 MR. DUEWALL: No, Your Honor. We're prepared to
18 present our argument pursuant to the contract -- or the
19 Order and the PSA terms.

20 THE COURT: Mr. Genender, do you have any problem
21 with that?

22 MR. GENENDER: No, Your Honor. Not at all.

23 THE COURT: Burden is on you.

24 MR. GENENDER: Thank you very much.

25 THE COURT: What do you want me to look at?

1 MR. GENENDER: I think --

2 THE COURT: Your Exhibit 1?

3 MR. GENENDER: Sure. I think it's really -- I
4 think it's really our Exhibit 2.

5 THE COURT: Your Exhibit 2.

6 MR. GENENDER: 26 -- 2269-2 and I think that --
7 which contains the paragraphs 18, 20, and 133 that I
8 referenced a moment ago, and I think that from those texts,
9 Your Honor, it establishes really the two points that we
10 made in our reply that was filed a little while ago that I
11 hope the Court had an opportunity --

12 THE COURT: I read it.

13 MR. GENENDER: Yeah. I think it establishes from
14 that on the Record before you, Your Honor, that there's no
15 mutuality to support setoff, that anything that was
16 preserved in paragraph 133 relates to the contract that was
17 assumed. That the Genovesa (phonetic) contract was not
18 assumed. In fact, it was rejected. It is not listed and
19 the Court can certainly -- this is our Exhibit 2269-5 -- can
20 certainly see on that document that the Isabella contract is
21 assumed and can see on that not only that the Genovesa
22 contract was not assumed, but can accept -- take judicial
23 notice of the fact it was rejected.

24 And that the language, the actual language in
25 paragraph 133 -- which thank you, I see you have up and I

1 appreciate that.

2 Everything about the language -- I'm not going to
3 read it word-for-word -- but speaks to -- it refers to BP
4 Executory Contracts and BP Executory Contracts are -- do not
5 include the Genovesa Agreement, Your Honor. It includes the
6 Isabella Agreement and therefore, of course, QuarterNorth
7 stands behind the good and the bad in the contract, the
8 benefits and the obligations in the contract it assumes.

9 THE COURT: So take a look at subparagraph (2) and
10 subparagraph (3).

11 MR. GENENDER: Sure.

12 THE COURT: And it talks about valid netting
13 within those contracts.

14 MR. GENENDER: Yes. So if there is -- if there is
15 something to be netted within the Isabella PSA --

16 THE COURT: Well, if the Isabella PSA, and I
17 haven't read the Isabella PSA. And maybe I need to get that
18 in here, but if the Isabella PSA would have authorized under
19 its own terms -- not under some common law just for a moment
20 -- a setoff against a non-assumed executory contract, is
21 that incorporated into the little 2 and little 3?

22 MR. GENENDER: It could be. It could be. I don't
23 think it does that, but it could be. And I also might take
24 a step back, Your Honor -- and this is in our motion papers,
25 original motion paragraph 29. In order for -- there's a

1 couple steps that BP has skipped here. One step that they
2 have skipped is that they have to show under Texas law that
3 they have a valid right to setoff. That's actually their
4 obligation.

5 THE COURT: Well, that may be an issue someday in
6 some proceeding. I don't think it's an issue as to whether
7 they violated the Confirmation Order, which is the limit of
8 what I'm here on today because it doesn't -- let's assume
9 that they have a setoff capability post-confirmation and
10 that they did it wrong. That's not a violation of the
11 Confirmation Order and that's just doing a wrong setoff.

12 Different question --

13 MR. GENENDER: That --

14 THE COURT: -- I think you're arguing -- your base
15 argument that you're making to me today is they can't set
16 off an assumed contract by obligations under a non-assumed
17 executory contract.

18 MR. GENENDER: Correct, correct.

19 THE COURT: And the fact that they might have done
20 it wrong will be interesting someday for somebody, but I
21 don't want to really take that up today, unless I'm missing
22 the issue.

23 MR. GENENDER: You have absolutely correctly noted
24 their belief that we very carefully prayed for before you in
25 this motion.

1 Your Honor, and I think that their position -- and
2 we do think they would have to show that they had a right to
3 setoff, but notwithstanding that, assuming, as you say, that
4 they have a right, this is not a situation in which they
5 made an error, they were clumsy. This is a situation in
6 which they exercised a right they absolutely do not have
7 here as it relates to these two agreements.

8 THE COURT: So --

9 MR. GENENDER: One rejected, one assumed.

10 THE COURT: So what does it mean? Let's take
11 little 3(i). It says, "Any valid netting under the BP
12 Executory Contracts," and you're saying, yeah, you agree, it
13 could have that in there and they would be allowed to do
14 that.

15 But then it says, "Or pursuant to applicable law,
16 unless it is inconsistent with the applicable BP Executory
17 Contract." What does "Or pursuant to applicable law" mean?

18 MR. GENENDER: I think that, Your Honor, would
19 mean the Texas law that I referred to that they can't
20 satisfy and they haven't pointed to.

21 In other words, they would have to establish they
22 had a right to a setoff or the right would have to be in the
23 contract itself.

24 But in any event, Your Honor, I think that all of
25 these provisions in 133 only relate to those contracts that

1 were assumed.

2 THE COURT: Well, little 4 is from the same
3 contract.

4 MR. GENENDER: Excuse me?

5 THE COURT: Little i-v is for an unassumed
6 contract. Just I don't --

7 MR. GENENDER: I'm sorry. I mean, 1 through 3,
8 sure.

9 THE COURT: Yeah.

10 MR. GENENDER: Yeah. The preamble to 133 where it
11 says, "The terms of this paragraph shall apply to the BP
12 entities and the executory contracts identified in
13 Schedule -- on the Schedule of Assumed Contracts, which is
14 our Exhibit 2269-5. That's the universe that that whole
15 paragraph upon which they rely released it.

16 And Your Honor, if -- if, and I think this is
17 important. We made a point of this in our motion, but maybe
18 more vividly in our reply when we saw the response that was
19 filed last night -- if BP really thought that this
20 Section 133 preserved it's --

21 THE COURT: I'm not going to go there -- not going
22 to go there.

23 MR. GENENDER: Well, okay.

24 THE COURT: I want to know what the unambiguous
25 contract says.

1 MR. GENENDER: Well, the unambiguous contract --
2 this language, Your Honor, does not preserve a right to a
3 contract that's not a BP Executory Contract on the schedule.

4 THE COURT: Well, on the day that the bankruptcy
5 case was filed -- and I know you're telling me that these
6 facts didn't occur, but just bear with me for a minute.

7 MR. GENENDER: Sure.

8 THE COURT: On the day the case was filed, you may
9 have owed them amounts under a non-assumed -- under a
10 contract that would eventually become not assumed and they
11 may have owed you money under a contract that you were
12 assuming -- does the "or pursuant to applicable law" retain
13 for them that right, if it had been matured as of the
14 Petition date?

15 MR. GENENDER: Well, I think the way I would
16 answer that question, Your Honor, would be in a situation
17 here where the contract they're trying to recover under,
18 Genovesa Agreement which has been rejected, would put them
19 into a world where they would be entitled to rejection
20 damages through that process, as opposed to through a setoff
21 where there is no mutuality of the parties as a result of
22 the transactions that were approved by the Court.

23 THE COURT: Well, but this says:

24 "The assumption and assignment of the contract to
25 QuarterNorth shall not impair BP's rights under the

1 Executory Contracts, including rights pursuant to
2 applicable law, unless it is inconsistent with the BP
3 Executory Contract," right?

4 MR. GENENDER: Yes.

5 THE COURT: So --

6 MR. GENENDER: And you're reading from little 3,
7 right?

8 THE COURT: Uh-huh.

9 MR. GENENDER: Okay. Paraphrasing from little 3,
10 yes.

11 THE COURT: So why don't they have the right to a
12 setoff under that?

13 MR. GENENDER: They have a right to setoff within
14 an assumed contract.

15 THE COURT: That's a recoupment right, if it's
16 within a contract?

17 MR. GENENDER: Yes.

18 THE COURT: Okay.

19 MR. GENENDER: Or perhaps, Your Honor, between
20 assumed contracts if there's mutuality of the parties. It
21 could mean that, as well. But not between a rejected
22 contract and an assumed contract, which is what we have
23 here.

24 I hope I'm answering your question.

25 THE COURT: You are. No, you're answering my

1 question in that you've now identified what I started with
2 as I come out, is that interpretation you just gave and the
3 ones that I think BP gave in what they filed yesterday.

4 MR. GENENDER: Is the Court struggling with the --
5 if I can ask?

6 THE COURT: Yeah, yeah.

7 MR. GENENDER: Is the Court struggling with the
8 "or applicable law," meaning that that has -- because I
9 don't know that there has -- that doesn't mean that there is
10 applicable law. It means, you know, if there were a law
11 that would --

12 THE COURT: Correct.

13 MR. GENENDER: -- provide a different right. So I
14 do think for the Court's analysis under this agreement, the
15 fact that they cannot point to Texas law that would allow
16 them a setoff right under the *Petty* case that we cited in
17 our brief. I do think that matters. I do think that's
18 relevant to the Court's analysis as to whether they have
19 violated the Order.

20 THE COURT: Well, can I -- and I did not -- I have
21 not made up my mind on what to do when I walked out, nor
22 have you persuaded me so far to make up my mind yet.

23 MR. GENENDER: Hopefully I haven't dissuaded you.

24 THE COURT: But look, I'm worried about a couple
25 of things that are intertwined with this. One, which I

1 don't think had occurred, was there might have been between
2 an assumed and a non-assumed contract a present setoff right
3 on the date of assumption and assignment. And if so, I
4 think this preserves that.

5 The situation we have, though, is one where there
6 was a setoff right not yet matured and at that point, the
7 identity of parties for the unmatured setoff right split at
8 the point you did the assumption and assignment.

9 But there was a -- if you will -- an inchoate
10 setoff right in that we have this whole 180-day issue that
11 is floating around out there.

12 MR. GENENDER: There was a contemplated setoff
13 right, and I say -- I choose that word, "contemplate." I
14 don't know if it's the perfect word, but --

15 THE COURT: Potential.

16 MR. GENENDER: -- potential -- it clearly wasn't
17 right, but that wasn't the only -- necessarily the only
18 issue with it, but Your Honor, that would not -- this is
19 where I do think that the timeline of events subsequent to
20 paragraph 133 becoming -- in a word, becoming part of the
21 Order and the Order being signed -- if this gave them the
22 right that they wanted, and that they say they have as we
23 sit here today --

24 THE COURT: Yeah, that's a method of interpreting
25 what you're telling me is unambiguous language and I don't

1 think I want to go there.

2 MR. GENENDER: But if a party files a pleading, a
3 pleading can be used as an admission against them -- it can
4 be. And if subsequent to this, they filed or sought relief
5 separately for setoff, that certainly is an act in conflict
6 with the position they're taking today, which is they had
7 the right to begin with.

8 That's all I wanted to say. I didn't want to go
9 that extrinsic road because I don't think we have to, but I
10 do think that's -- I don't think that goes down that road, I
11 think that's just a -- something that the Court can be aware
12 of.

13 THE COURT: So tell me how to read those words,
14 though, to deal with what I think you're terming to be a
15 potential future setoff whereby the time the potentiality
16 occurred, the parties had split because of the assumption.

17 MR. GENENDER: In little 3, or in any of the first
18 three provisions.

19 THE COURT: Yep.

20 MR. GENENDER: Well, first of all, I think they
21 have to be read with the intro to 133, the first three
22 lines, as, you know, that applies to all the sections.

23 And then with 1, 2, and 3, they are -- 2 and 3
24 specifically -- well, 1, 2, and 3 specifically are limited
25 to the BP Executory Contracts. So it doesn't -- they don't

1 contemplate a rejected contract and at that point, there was
2 a -- there was an actual -- there was a list and this wasn't
3 one of them. So --

4 THE COURT: Yeah, but look. If Fieldwood and --
5 excuse me, if QuarterNorth and BP tomorrow entered into a
6 new contract, they could set off the new contract against
7 obligations under the assumed contracts, right?

8 MR. GENENDER: They could do it, Your Honor.
9 There would be mutuality. It would -- but they wouldn't be
10 doing it -- I'd submit they wouldn't be doing it pursuant to
11 paragraph 133 of the Confirmation Order.

12 THE COURT: Yep, but that means that's why I'm
13 worried about what "pursuant to applicable law" means.
14 Because I don't know if we're preserving their right as of a
15 certain day for a -- I think I understand your argument that
16 at the point when there is an assumption and assignment,
17 something that is potential no longer matters because we no
18 longer have mutuality of the parties.

19 I'm worried about what the preservation language
20 function is because we didn't need it if there was, by law,
21 preservation of those rights as to things for which there
22 are mutual entities.

23 MR. GENENDER: I think -- thinking through the
24 Court's questioning and reasoning -- or questioning, I
25 should say, I'd submit there's a simpler way to deal with

1 this, which is instead of what a hypothetical could be, just
2 looking what the actual facts are before you, and to take
3 their -- BP's position would mean that rejecting a contract,
4 you don't get the -- you really don't get the benefit of
5 rejecting a contract. And that's not -- that's not the law.

6 And if there's another applicable law that
7 provides --

8 THE COURT: Or you gave up that benefit by adding
9 this language is another possibility.

10 MR. GENENDER: I don't see that it does that,
11 based on how it's limited to the assumed contracts and the
12 BP Executory Contracts and Your Honor, I'd submit, I know
13 it's our burden on the motion, but I do believe it's BP's
14 burden to come forth with other applicable law, if that
15 exists.

16 And in their prior briefing on the motions -- the
17 setoff motions that were pulled -- that they pulled down and
18 in their objection last night, they don't cite law that
19 would provide them that underlying setoff right. And I
20 think that's another issue, as well.

21 I mean, they have to show that they have a valid
22 setoff right across these two contracts, and to your
23 hypothetical, what if there were language in the Isabella
24 PSA that under which the Genovesa PSA could be hooked in,
25 there's -- I don't have them committed to memory, but that

1 doesn't -- I'm fairly certain as I stand before you, that
2 doesn't exist.

3 THE COURT: Okay.

4 MR. GENENDER: And if it did, I know these good
5 lawyers would have brought it forth.

6 So I just don't -- I think when you take this
7 language, which the parties agree is unambiguous and apply
8 it to these facts, I think it's actually a very
9 straightforward decision for you, given the lack of
10 mutuality and the fact that they cannot point to a valid
11 setoff right. And I think everything else -- well, I think
12 the Court streamlined this a lot by initially focusing on
13 ambiguity or non- --

14 THE COURT: Well, but I may end up where I think
15 the contract is ambiguous but then I've wasted a lot of your
16 time.

17 MR. GENENDER: But Judge, I don't think there's
18 any ambiguity as it relates to the language "or any
19 applicable law," because if anything, the language has to be
20 read -- the Court, as I understand it would have to read
21 this to give everything meaning, but it doesn't mean that --
22 that doesn't mean that that language has to -- that there
23 has -- it doesn't assume there is applicable law. It says,
24 "If there's applicable law," then it would be taken into
25 consideration.

1 They haven't shown any that would change the
2 meaning of the words on the page.

3 THE COURT: Okay.

4 MR. GENENDER: I think that's --

5 THE COURT: I think I understand your argument.

6 MR. GENENDER: Okay. And I don't really have
7 anything else to say at this point that would help you, I
8 don't think.

9 THE COURT: Let me hear from BP.

10 MR. GENENDER: May I confer real quick?

11 (Pause in the proceedings.)

12 MR. CARLSON: Your Honor, Cliff Carlson for
13 QuarterNorth.

14 Just one point I wanted to make if permitted to,
15 and Mr. Genender said this, but just if you look at how "BP
16 Executory Contracts" is defined, it's limited to just
17 assumed BP contracts, right? And so Genovesa was not
18 assumed, it was rejected, and Isabella PSA was assumed and
19 so you have to read 133, Romanette numeral iii, and if you
20 read the lead-in here, it's saying:

21 "The assumption, assumption or assignment, or
22 assumption and allocation of the BP Executory Contract
23 is a defined term -- shall not alter, impair or
24 otherwise affect any of the parties' respective rights
25 and allegations under the BP Executory Contracts."

1 So we're looking at only the Isabela PSA, not the
2 Genovesa PSA. And then it goes into including what types of
3 rights we're talking about and to the point of "or pursuant
4 to applicable law," there's the point -- there was
5 contractual and then there's other -- you know, if there's
6 any other applicable law, to Mr. Genender's point, is there
7 has to be applicable law that is available that they can
8 argue that under Visadall (phonetic) PSA they had valid
9 setoff right. They hadn't shown that, you know, to Your
10 Honor's point about looking at this, you know, prior to
11 assumption and assignment, they didn't have any valid --
12 they didn't have any valid setoff rights under these
13 agreements for, among other reasons, for the timing issue
14 and the fact that it was contingent.

15 And so that's how -- that's how you reconcile 133
16 Romanette numeral iii, then you have 133 Romanette iv, which
17 expressly treats what you do -- how you treat rejection
18 damage claims and it says in the very last sentence of
19 133(iv), it says:

20 "Claims based on a rejection of any executory contracts
21 and unexpired leases between the Debtors and the BP
22 entities, shall be treated as a claim as a Class 6(b)
23 unsecured claim under the Plan."

24 And so I just don't -- we haven't heard -- I think
25 they've conceded this is a rejected -- this is a rejected

1 contract. I don't know why this 133(iv) doesn't -- wouldn't
2 govern in this situation, and that's how we read 133
3 Romanette numeral iii.

4 THE COURT: Okay. Thank you.

5 MR. CARLSON: Thank you.

6 (Pause in the proceedings.)

7 MR. DUEWALL: Thank you, Your Honor.

8 I think the Court has seized on what the issue is
9 and that being the meaning and interpretation of the
10 language pursuant to applicable law that appears there in
11 Romanette iii.

12 There's nothing in the Isabella PSA -- unless
13 inconsistent with the applicable BP Executory Contract. The
14 exercising of the secured right of setoff is not
15 inconsistent with that PSA in any form. It certainly
16 doesn't prohibit that exercise of the setoff rights.

17 So I think that's how that language is properly
18 interpreted.

19 I think it's also important to look under the --
20 and I'm going to use their exhibits, but Document 2269-6,
21 which is the Purchase and Sale Agreement, because even in
22 that document, I think it's consistent with BP's
23 interpretation of -- and the proper interpretation of
24 Romanette iii, and specifically, I draw the Court's
25 attention to 2269-6, page 80 of 170.

1 (Pause in the proceedings.)

2 MR. DUEWALL: And I'm in Section 11.1, little n.
3 There it is on that page, Your Honor.

4 THE COURT: Wait. Let me see what the interim is
5 in that. Just a second.

6 (Pause in the proceedings.)

7 THE COURT: So QuarterNorth assumes -- tell me
8 what n does for us?

9 MR. DUEWALL: Well, that's speaking with regard
10 to, Your Honor, the liabilities arising out of or related to
11 the -- our affirmative defenses of third parties with
12 respect to any claim or cause of action assigned to buyer.

13 Here, you know, that claim or cause of action
14 being their desire to recover these amounts under the
15 Isabella PSA, and then pursuant to Section 11.1 little i, w,
16 or rr, to the extent if treated as retained liabilities.

17 And so rr and 1.2 rr speaks in terms of the
18 acquired interest that they're taking and includes the
19 executory contracts, you know, which includes the Isabella
20 PSA. So you know, it's our position that that right of
21 setoff is preserved.

22 THE COURT: That's an affirmative defense?

23 MR. DUEWALL: I'm sorry, Your Honor.

24 THE COURT: A setoff right is an affirmative
25 defense?

1 MR. DUEWALL: As a secured claim it would be an
2 affirmative defense.

3 THE COURT: This may just be a memory failing on
4 my part. I didn't recall that setoff was an affirmative
5 defense. Maybe it is. Is that under Texas law? I just
6 don't remember this.

7 MR. DUEWALL: It is, Your Honor, and that's -- in
8 our brief that's the -- and I think it's on page --
9 paragraphs 44 through 53 of our -- of our papers, Your
10 Honor, where we set out there, you know, irrespective of
11 what the contract says in paragraph 133, as a matter of law,
12 we've preserved these rights. These rights of setoff are
13 preserved, so.

14 THE COURT: I'm going to under your brief,
15 paragraph 44. Does this say -- and maybe I need to look at
16 the Texas Civil Practice and Remedies Code, or something
17 else, that this is an affirmative defense?

18 Because that is all that I was looking at there.
19 I just don't remember it being an affirmative defense. But
20 it may be.

21 (Pause in the proceedings.)

22 THE COURT: And I deal with a Texas law question
23 for that?

24 MR. DUEWALL: And the Texas law that we cite, Your
25 Honor, when counsel is suggesting that we don't have the

1 right -- that we haven't established the right to setoff.

2 If we look in, you know, BP's, you know, the
3 briefing we did at Document 1666 in the Court's Record where
4 initially filed our Motion to Lift Stay, which I think they
5 were referring to, --

6 THE COURT: Right.

7 MR. DUEWALL: -- when they say that we somehow
8 abandoned or walked away from that. We set out in that
9 motion comprehensively the right to setoff, you know,
10 cross-netting, if you will --

11 THE COURT: Yeah, I'm only asking if it's an
12 affirmative defense.

13 MR. DUEWALL: We believe it is, Your Honor. And
14 I --

15 THE COURT: Under Texas law or under Federal law,
16 or? And it may be -- again, it may be. I'm not at all
17 saying it isn't. I just -- I want to just cross that bridge
18 together.

19 MR. DUEWALL: Okay. Just one moment, Judge.

20 (Pause in the proceedings.)

21 THE COURT: I'm just going to pull up the Texas
22 Civil Practices and Remedies Code and see if it is.

23 (Pause in the proceedings.)

24 THE COURT: Yeah, we'll look it up later. I'm not
25 going to find it that quickly.

1 So let me go back. Their principle argument that
2 they start with is that by separating the parties on the
3 assumption and assignment, that you can't setoff anything
4 that arose or matured after the date of the separation of
5 the parties.

6 And let me go back to the agreement and have you
7 deal with that issue.

8 MR. DUEWALL: In 133, Your Honor?

9 THE COURT: Correct.

10 (Pause in the proceedings.)

11 MR. DUEWALL: If I understand the Court's
12 question, it's that once there's a separation of parties
13 that we've somehow forfeited our right to -- the setoff
14 right, is that what --

15 THE COURT: No. They're saying -- my
16 interpretation of their argument is you have setoff rights,
17 but you only have setoff rights if they exist under the law
18 and you preserved them all, but to exist under the law, you
19 still have to have mutuality of interests. You can't just
20 bring in an existing contract where there's no longer
21 mutuality and assert it. You didn't preserve that right.
22 You preserved whatever rights might exist to setoff in the
23 future, but you still have to have a right of setoff in the
24 future.

25 And they're saying because there's an absence of

1 mutuality, you don't get that.

2 MR. DUEWALL: And I think that's ultimately the
3 question that the Court is going to have to answer. It's
4 our interpretation of that language that "or pursuant to
5 applicable law" that our setoff right -- you know, as a
6 secured claim is an affirmative defense if they try to
7 enforce their rights under the executory contracts.

8 So for example, you know, I know that we don't
9 want to say that -- trying to take a step back and not use
10 the course of dealings to interpret what occurred or what
11 didn't occur, but --

12 THE COURT: But we may end up there. I'm trying
13 to avoid that because you are both telling me it's not
14 ambiguous. I'm just doing my best here, so.

15 MR. DUEWALL: But I think that's the import of
16 "pursuant to applicable law." I don't think it was a
17 surprise to anyone. In fact, it was anticipated that there
18 was going to be a new entity on the backend of this
19 bankruptcy proceeding.

20 With that anticipation the "or pursuant to
21 applicable law" is where it becomes important. By the time
22 this is negotiated and finalized, the BP Executory Contracts
23 have been identified. That was no surprise to anyone.

24 THE COURT: Right.

25 MR. DUEWALL: We knew they were taking Isabella.

1 We know they weren't taking Genovesa.

2 THE COURT: But you can have two -- they took more
3 than one BP contract, you could set off between the two BP
4 contracts. Can you set off against one they didn't take?

5 MR. DUEWALL: Yes. Yes, I think so

6 THE COURT: What gives you the right to set off
7 against one -- with respect to Quarter Main (phonetic) --
8 not with respect to BP -- I'm sorry, not with respect to
9 Fieldwood, what gives you the setoff right with respect to
10 QuarterNorth --

11 MR. DUEWALL: QuarterNorth, correct.

12 THE COURT: -- under this provision?

13 MR. DUEWALL: What gives us the setoff right, Your
14 Honor, is the connection of the dots of our position that
15 that affirmative defense, that setoff/offset, that they're
16 taking that contract -- they're taking that executory
17 contract, that Isabella contract subject to those rights
18 that we have and that are preserved under 11.1(n). That's
19 how we get there.

20 THE COURT: So I really do need to worry about
21 what 11.1 means a lot?

22 MR. DUEWALL: Correct.

23 THE COURT: Okay. Which I had not focused on
24 before I came in. But I do understand what you're telling
25 me I need to do.

1 MR. DUEWALL: Now if our exercise of those,
2 applicable law was inconsistent with the Isabella PSA,
3 that's why that language is in there, that inconsistent with
4 the applicable BP Executory Contract. But it's not. It's
5 entirely consistent with applicable law -- with Texas law,
6 but we don't cite the Court to those cases in our response
7 that was filed last night.

8 But we do in Document 1666 where we fully briefed
9 the Texas law on that issue.

10 THE COURT: Okay.

11 MR. DUEWALL: So I think to the extent that there
12 is an unambiguous -- I agree. We think it's unambiguous, as
13 well.

14 THE COURT: Okay.

15 MR. DUEWALL: So the Texas law, Your Honor, just
16 for the Record is 1666, paragraphs 13 through -- I'm sorry,
17 paragraphs 11 through 13 is where we cite, you know, the
18 *Garden Ridge* case, the *Braniff v. Exxon* case and a few
19 others, you know, demonstrating that we do have this right
20 under applicable law to exercise the setoff as we have.

21 Now if the Court disagrees with us and our
22 interpretation of the contract language, you maybe may
23 decide otherwise. But that's where we find justification
24 for it.

25 THE COURT: No, you know, okay.

1 Let me hear if Fieldwood wants to give any
2 response to Mr. Duewall.

3 MR. GENENDER: Your Honor, may I make a point?
4 And allow Mr. --

5 THE COURT: Yeah, that's fine.

6 MR. GENENDER: -- Carlson to go. The last point
7 that Mr. Duewall made in that brief in citing *In Re: Garden*
8 *Ridge*, in paragraph 10 of that brief filed on June 20th, the
9 quote that says, second sentence: Under Texas law, setoff
10 is permitted, quote, "where demands are mutual between the
11 same parties and in the same capacity or right," end quote.

12 So they don't have --

13 THE COURT: But if your client -- he's already --
14 and your client assumes certain liabilities which would
15 include those.

16 MR. GENENDER: We did not, and that's where I said
17 a moment ago, that to take that argument and to say they've
18 got an affirmative defense, would basically turn on its head
19 a Debtor's right to reject a contract because mutuality does
20 not exist.

21 THE COURT: Let me look back on where he pointed me
22 to, if I can get there again -- paragraph, I think it was
23 your Exhibit 6; is that right?

24 MR. GENENDER: Oh, in Section 11.1.

25 THE COURT: Right.

1 MR. GENENDER: Yes.

2 11.1, and I believe it was, Your Honor?

3 (Pause in the proceedings.)

4 MR. GENENDER: I think it was on page 80 of 170,
5 if my memory serves.

6 THE COURT: Uh-huh. So your client assumed all
7 liabilities arising out of or relating to any affirmative
8 defenses by BP with respect to any claim or cause of action
9 assigned to your client pursuant to 1.2(i), 1.2(w), and
10 1.2(rr).

11 "To the extent that if treated as retained liabilities,
12 such defenses or rights would not constitute general
13 unsecured claims of the sellers."

14 What does that mean?

15 MR. GENENDER: They don't have -- there isn't --
16 and to answer your question, I think we confirmed while
17 Mr. Duewall was -- setoff is an affirmative defense under
18 Texas law, so I want to at least answer that.

19 THE COURT: Okay.

20 MR. GENENDER: And for it to be an affirmative
21 defense of a third party, we're talking around the issue,
22 Your Honor. An affirmative defense to what? You still have
23 to have the mutuality for the affirmative defense to apply.

24 The law they cited, it said that for there to be
25 setoff, it has to be between the same parties. Mr. Duewall

1 quite correctly said that leading up to entry of the
2 Confirmation Order, they knew that there were going to be
3 different parties. They knew what was on one list and
4 presumably knew at least at that point what would not be --
5 that there's a possibility something could be rejected
6 because of what the deadlines were.

7 This language doesn't apply because there's not a
8 valid setoff -- I mean, I'm talking in circles a little bit.

9 THE COURT: No, I got it.

10 MR. GENENDER: There's not a valid setoff right to
11 begin with.

12 THE COURT: You're saying if they had a valid
13 setoff right, it's being assumed by your client, but with no
14 valid setoff right, they're assuming zero.

15 MR. GENENDER: Correct.

16 THE COURT: All right. I understand that right.

17 MR. GENENDER: So a little bit -- I mean, there's
18 a lot of -- Judge, it's like if everyone reserves their
19 rights, which everyone always comes before you say, "We'll
20 reserve your rights." And I've heard you say this, I've
21 heard Judge Jones say this many times, sometimes you don't
22 even have to say it. You know, everyone reserves their
23 rights.

24 THE COURT: Uh-huh.

25 MR. GENENDER: That can sometimes mean something,

1 but oftentimes it's unnecessary to say it.

2 THE COURT: So I'll let Mr. Carlson finish off and
3 then we'll let Mr. Duewall to finish today.

4 MR. GENENDER: Thank you, Your Honor.

5 Ms. Choi passed me a note and I want to make sure
6 I'm -- I looked at something that indicated setoff isn't an
7 affirmative -- I don't think this is dispositive to your
8 ruling, Judge, but I want to make sure I'm as accurate as
9 possible.

10 A setoff may not necessarily be an affirmative
11 defense under Texas law. It's not listed under -- I know
12 the Court was mentioning Civil Practices and Remedy Code.
13 It's really Rule of Procedure, Texas, 94.

14 THE COURT: Texas Rule of Civil Procedure.

15 MR. GENENDER: Yeah, 94, and it's not listed
16 there, although there's a catchall saying "or other
17 applicable defense." We were looking at a case that we're
18 checking to make sure that case is still good.

19 THE COURT: So I think that it is an affirmative
20 defense under the Federal rules, but I'm not sure that that
21 applies to what we're looking at right now.

22 MR. GENENDER: Understood. Thank you.

23 THE COURT: So that's why I'm asking about Texas
24 law

25 MR. GENENDER: Yep.

1 THE COURT: My recollection of that is going to
2 come from law school until I go look it up somewhere.

3 Go ahead, Mr. Carlson.

4 MR. CARLSON: Your Honor, just two additional
5 points. First is that if you look at Section 11.1(n)
6 it's -- this is how it could be read together with the
7 Confirmation Order. It says:

8 "Those rights or claims are reserved to the extent that
9 if treated as retained liabilities, such defenses or
10 rights would not constitute general unsecured claims of
11 the sellers."

12 For the reasons we've discussed, we think it says
13 -- it enumerates in 133 of the Confirmation Order that these
14 would be unsecured claims.

15 THE COURT: This is unsecured claims of the
16 sellers. Who is the seller here?

17 (Pause in the proceedings.)

18 THE COURT: It's not unsecured claims against --

19 MR. CARLSON: Fieldwood is the seller here.

20 THE COURT: What is that? Fieldwood is the
21 seller? This would be an unsecured claim by Fieldwood
22 against QuarterNorth.

23 MR. CARLSON: Correct. Fieldwood against BP.

24 THE COURT: I don't think so. This is "of the
25 sellers," not "against the sellers."

1 MR. CARLSON: I see. I see it, Your Honor. Okay.

2 THE COURT: I think. That's at least the way I'm
3 reading it, so I think that part doesn't matter too much.

4 MR. CARLSON: Okay. You might be right on that,
5 Your Honor.

6 The other point I just wanted to make was that to
7 the extent that there is an inconsistency and these can't be
8 read together, paragraph 168 of the Confirmation Order makes
9 clear that to the extent of an inconsistency, the
10 Confirmation Order governs.

11 So if Your Honor did go there and decide that
12 these documents were inconsistent --

13 THE COURT: Right.

14 MR. CARLSON: -- this would --

15 THE COURT: Okay.

16 MR. CARLSON: Thank you, Your Honor.

17 THE COURT: Thank you.

18 Mr. Duewall, why don't I let you close out?

19 MR. DUEWALL: Thank you, Your Honor. I just
20 had -- maybe to save your clerk a little bit of research
21 time, but they reminded me that the right to offset is an
22 affirmative defense and the cite I got for that was *Lone*
23 *Star Multi Theaters* at 365 S.W.3d 688, Houston Appellate
24 Court decision in 2011.

25 So that's all I wanted to bring to the Court's

1 attention.

2 THE COURT: Okay. Thank you.

3 I'm not going to decide this from the Bench.

4 Can I ask the parties what level of urgency we
5 have? I know that it's a lot of money on the one hand, but
6 it's two solvent entities that can afford to pay interest if
7 there is a delay. So I think it's going to take a little
8 bit to decide.

9 MALE SPEAKER: Understood, Your Honor. I did
10 speak to Mr. Dane, and the end of the year looms closely.
11 That was the only comment we wanted to make.

12 THE COURT: Yeah. I assume he can -- he is an
13 accrual basis reporter.

14 (Laughter.)

15 THE COURT: I think I'll probably have a decision
16 by the end of the year, don't get me wrong. But I'm just
17 saying that I don't know that we have urgency in terms of --
18 this isn't, you know, some dire -- last time that you guys
19 were all here, although it was all on TV, we had dire
20 consequences that we were facing. I don't think we have
21 dire consequences that require me to try and make a snap
22 decision. I want to look more carefully at what we have
23 here. I'd just take it under advisement.

24 If it turns out that I conclude that I can't
25 conclude because the document is ambiguous, I'm going to

1 call you-all back, and we'll then put on witnesses and other
2 types of documents.

3 But I think it is -- right now I'm thinking it's
4 very hard to read, but not ambiguous, and so I think I'm
5 agreeing with you-all and I just want to take some quiet
6 time. I want to read it. I haven't focused on the section
7 that Mr. Duewall pointed out, even though it's in his brief.

8 MALE SPEAKER: Your Honor, would it help the Court
9 if there was some supplemental briefing?

10 THE COURT: Nah. I mean, you-all explained it. I
11 think I understand what everybody is telling me. I just
12 need to go read it.

13 Let's go ahead, though, and complete the Record by
14 putting in the objective documents, the ones that were
15 referred to here that you-all don't object to, just so that
16 we have a clean Record, if we could?

17 So I know we've looked at 2269-2, 2269-6, and we
18 have the stipulated facts at the beginning of the hearing.

19 What else do you-all want me to be able to use in
20 making the decision?

21 MR. GENENDER: 2269-5, please.

22 THE COURT: Which is what?

23 MR. GENENDER: Which is the scheduled assumed
24 contracts.

25 THE COURT: Okay. Any objection to that, as well?

1 (No audible response.)

2 THE COURT: I think they stipulated, though, to
3 that as a fact.

4 MR. GENENDER: Yeah.

5 THE COURT: Which was --

6 MALE SPEAKER: No objection, Your Honor.

7 THE COURT: Okay. Thank you.

8 MR. GENENDER: I think everything else is
9 stipulated to. I mean, these are -- you don't need it.

10 Yep, thank you.

11 THE COURT: Anything else you-all want in,
12 Mr. Duewall?

13 MR. DUEWALL: We had, Your Honor, just one moment.
14 It's been so long since I've done this in person, my papers
15 are in kind of in a mess.

16 THE COURT: You should be more frightened. It's
17 been so long since I've done this in person, so.

18 (Laughter.)

19 MR. DUEWALL: So where is our list?

20 MALE SPEAKER: Right here.

21 MR. DUEWALL: The truth of the matter, Your Honor,
22 most of this has already been admitted, but to the extent
23 MC 519 and the Isabella PSA have already been admitted
24 numerous times, 2273 and 2274 --

25 THE COURT: Let's go ahead and put them in, if you

1 want them in.

2 2273, any objection to that coming in?

3 MR. DUEWALL: Let me just get my list, Your Honor.

4 THE COURT: That's the PSA --

5 MR. DUEWALL: The Isabella PSA?

6 THE COURT: -- for Mississippi Canyon Block 519.

7 MR. DUEWALL: No objection, Your Honor.

8 THE COURT: Okay. 2273 is admitted.

9 (2273 received in evidence.)

10 MR. DUEWALL: And then 2274 is the Isabella.

11 THE COURT: Mississippi Canyon 562?

12 MR. DUEWALL: Correct, Your Honor.

13 MR. GENENDER: No objection.

14 THE COURT: It's admitted.

15 (2274 received in evidence.)

16 MR. DUEWALL: I think that's it. Let me just
17 confirm.

18 (Pause in the proceedings.)

19 MR. DUEWALL: Oh, then there was -- I had -- you
20 know, we talked about the two different versions of the PSA.
21 The second is 2275-1.

22 THE COURT: Any objection to 2275-1?

23 MR. GENENDER: No, Your Honor.

24 THE COURT: It's admitted.

25 (2275-1 received in evidence.)

1 MR. GENENDER: Judge, just for completeness, I
2 mean, the Court can take judicial notice of the Plan itself,
3 but at 2269-4 is the Plan.

4 THE COURT: I think it's attached to the
5 Confirmation Order, but I'll --

6 MR. GENENDER: Okay. Okay.

7 THE COURT: -- take it that 2269-4 is admitted.
8 (2269-4 is admitted.)

9 MR. GENENDER: All right. Thank you.

10 MR. DUEWALL: I think that's it, Your Honor.

11 THE COURT: Thank you.

12 If you-all don't mind, I'm going to take a
13 minute --

14 MR. DUEWALL: On the letter -- I'm sorry, the
15 letter where we effected our setoff rights was 2271-11. I
16 think we both have that on our list.

17 MR. GENENDER: I understood that was stipulated --
18 the underlying facts were stipulated to. Same with the
19 others. That's why we --

20 THE COURT: That's right. I agree.

21 MR. DUEWALL: Yeah, and I think -- I think if you
22 have us back, we'll talk about the email from Carlson and
23 Mr. Burrer, but I don't think for purposes of today, we need
24 that.

25 THE COURT: I agree. Thank you.

1 Mr. Burrer, can I impose on you to tell me whether
2 you -- how the hearing -- how observable it was from a
3 distance? I know that you've been watching. I think I have
4 your line open.

5 Mr. Burrer, go ahead.

6 (No audible response.)

7 THE COURT: You have your own line muted.

8 MR. BURRER: As soon as we're done with the
9 pandemic, I'm sure I'll be completely fine with that, but
10 the hearing was perfectly viewable. Everybody came through
11 clearly. No issues from the cheap seats.

12 THE COURT: Okay. Thank you. Glad you could stay
13 away.

14 (Laughter.)

15 THE COURT: All right. I'm taking it under
16 advisement. We'll take it under advisement right away and
17 I'll get you-all out a written decision on this.

18 Thank you-all for coming.

19 (The parties thank the Court.)

20 THE COURT: Yeah, thank you. Glad to have you-all
21 -- glad to have everybody back?

22 What is that?

23 MALE SPEAKER: First live hearing in this case.

24 THE COURT: Is it really?

25 MALE SPEAKER: Yeah. I think I had you last year,

1 was March 12th, your last day?

2 THE COURT: I don't know, but it would have been
3 around then.

4 MALE SPEAKER: The Thursday before?

5 THE COURT: That's probably about when I went into
6 -- yeah, because shortly after that, I know that I ended up
7 going into isolation or whatever we called it.

8 MALE SPEAKER: I remember being here that day,
9 yeah.

10 THE COURT: All right. Thank you-all for coming
11 in.

12 (Hearing adjourned at 3:32 p.m.)

13 * * * * *

14 I certify that the foregoing is a correct
15 transcript to the best of my ability from the electronic
16 sound recording of the ZOOM/telephonic proceedings in the
17 above-entitled matter.

18 /S/ MARY D. HENRY

19 CERTIFIED BY THE AMERICAN ASSOCIATION OF
20 ELECTRONIC REPORTERS AND TRANSCRIBERS, CET**337

21 JUDICIAL TRANSCRIBERS OF TEXAS, LLC

22 JTT TRANSCRIPT #65096

23 DATE FILED: JANUARY 19, 2022

24

25